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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/534,512

05/11/2005

Rolf Drewes

PP/1-22793/A/PCT

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7590

08/31/2007

CIBA SPECIALTY CHEMICALS CORPORATION

PATENT DEPARTMENT

540 WHITE PLAINS RD

P O BOX 2005

TARRYTOWN, NY 10591-9005

EXAMINER

SZEKELY, PETER A

ART UNIT

PAPER NUMBER

1714

MAIL DATE

DELIVERY MODE

08/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/534,512

Applicant(s)

DREWES ET AL.

Examiner

Peter Szekely

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 7/26/05
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The word "type" renders the claim indefinite.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-13, 15-21 and 23-25 are rejected under 35 U.S.C. 102(b or e) as being anticipated by Hulscotte 6,642,288, Harashina 6,753,363 or Kaprinidis et al. 7,138,448.
6. Hulscotte discloses polybutylene terephthalate, melam and Zn-salt of dimethylphosphonic acid in Table 1, composition 14. For polymers see the paragraph overlapping columns 1 and 2, for melamine condensation products column 2, lines 14-17, for phosphates column 2, lines 25-30, for phosphinate salts column 2, lines 36-40, for UV stabilizers, reinforcing agents, fillers column 3, lines 1-19, for melamine

Art Unit: 1714

cyanurate column 3, line 49. Harashina teaches polyacetal, red phosphorus, calcium salt of methyl phosphonate and CTU guanamine in Table 9, composition 59, basic nitrogen compounds from column 26, line 22, to column 28, line 44, hindered amines in column 33, lines 27-53, metal oxides and hydroxides in column 34, line 33, halogen containing flame-retardants in column 34, lines 39-49, silicone compounds in column 34, lines 50-59, antimony trioxide in column 35, line 3 and nitrogen compounds in from column 40, line 50, to column 41, line 19. Kaprinidis et al. recite a blend of melamine and phosphorus containing flame-retardant in column 20, lines 52-55, polymers from column 3, line 48, to column 7, line 14, melamine phosphates, phosphonates and their metal salts, phosphinates and their metal salts and other flame-retardants from column 7, line 15, to column 8, line 30, hindered amines from column 9, line 5, to column 10, line 67, fillers and reinforcing agents in column 19, lines 48-52, UV absorbers in column 20, lines 28-44 and compounds tested from column 22, 63, to column 25, line 36.

Applicants' claims are not novel.

Claim Rejections - 35 USC § 103

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

Art Unit: 1714

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-21 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hulscotte 6,642,288, Harashina 6,753,363 or Kaprinidis et al. 7,138,448, in view of Schlosser et al. 6,255,371.

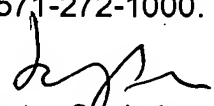
9. The primary references have been discussed already. Schlosser et al. display the blend of metal salts of phosphinic acid with melamine, melamine condensation products and melamine condensation products with phosphoric acid. Since the phosphinic acid metal salts act synergistically with nitrogen compounds and phosphonic acid salts also act synergistically with the same nitrogen compounds, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add the phosphinate salts of Schlosser et al., to the compositions of the primary references, in order to achieve maximum flame-retardance.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (571) 272-1124. The examiner can normally be reached on 7:00 a.m.-5:30 p.m. Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Peter Szekely
Primary Examiner
Art Unit 1714

P.S.
8/29/07